Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	
Connect America Fund	WC Docket No. 10-90
A National Broadband Plan for Our Future	GN Docket No. 09-51
Establishing Just and Reasonable Rates for Local Exchange Carriers	WC Docket No. 07-135
High-Cost Universal Service Support	WC Docket No. 05-337
Developing an Unified Intercarrier Compensation Regime	CC Docket No. 01-92
Federal-State Joint Board on Universal Service	CC Docket No. 96-45
Lifeline and Link-Up	WC Docket No. 03-109
Universal Service Reform – Mobility Fund	WT Docket No. 10-208

COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Commonwealth of Massachusetts
Department of Telecommunications and Cable

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TABLE OF CONTENTS

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The Massachusetts Department of Telecommunications and Cable (MDTC)[1] respectfully submits these comments in response to the Further Notice of Proposed Rulemaking (FNPRM) released by the Federal Communications Commission (FCC or Commission) on November 18, 2011, in the above-referenced dockets.[2] The FNPRM accompanies a Report and Order (Order)

[1] The MDTC is the exclusive state regulator of telecommunications and cable services within the Commonwealth of Massachusetts. MASS. GEN. LAWS ch. 25C, § 1.

[2] *In the Matter of Connect America Fund*; *A National Broadband Plan for Our Future*; *Establishing Just and Reasonable Rates for Local Exchange Carriers*; *High-Cost Universal Service Support*; *Developing an Unified Intercarrier Compensation Regime*; *Federal-State Joint Board on Universal Service*; *Lifeline and Link-Up*; *Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (*CAF/ICC Order and FNPRM*).

that substantively reforms two, interrelated systems: intercarrier compensation (ICC) and the high-cost arm (High-Cost Fund) of the federal Universal Service Fund (USF or Fund).

The Commission's Order preempts state authority over intrastate ICC rates; reduces carriers' ICC revenues; and permits, subject to certain conditions, a subset of carriers to recover a portion of their lost revenues through an Access Recovery Charge (ARC), assessed through a line-item on consumer bills, and through a separate access recovery mechanism created within the Connect America Fund (CAF ICC Recovery). In the FNPRM, the Commission seeks comment on additional details and measures relating to its comprehensive ICC reform efforts set out in the Order. The MDTC responds to the access recovery portions of the Commission's inquiries.[3]

I. INTRODUCTION AND SUMMARY

Very generally, under the current plan, carriers nationwide must bring many of their intrastate access rates into parity with their interstate access rates by July 1, 2013.[4] Many states, including Massachusetts, already implemented similar reforms on their carriers' intrastate access charges prior to the Commission's directive. After July 1, 2013, all carriers must implement a multi-year phase-down of most of their rates, both interstate *and* intrastate, to a bill-and-keep schematic.[5] Understandably, all carriers will experience potentially substantial reductions in their ICC revenues, both interstate and intrastate, over the next several years.

[3] The Commission seeks comment on the intercarrier compensation and access recovery mechanism portions of the FNPRM in this round of comments. The MDTC's silence on any particular issue raised in the FNPRM should not be construed as support or opposition to that issue.

[4] *CAF/ICC Order and FNPRM*, Fig. 9 at pp. 271-272. The Commission does not address originating and certain transport access rates. In addition, the Commission caps *all* rates (access charges and reciprocal compensation rates) as of the effective date of the Order.

[5] *Id*. Under a bill-and-keep regime, carriers would not pay each other for terminating calls.

In order to offset these losses, carriers may increase the non-regulated retail rates that they charge to their end-users.[6] A single subset of carriers, namely incumbent local exchange carriers (ILECs), may also choose to recover a portion of those lost revenues through an ARC line-item added to their customers' telephone bills, as well as from a separate CAF ICC Recovery mechanism beginning in 2012.[7] The ILECs' eligible recovery (Eligible Recovery) through these two mechanisms will be calculated based on their eligible Fiscal Year 2011 ICC revenues and will be subject to certain constraints.[8] The MDTC could reasonably expect the Commission to permit all carriers to recoup their lost ICC revenues from customers in the same state where the revenue was lost. The Commission, instead, permits ILECs to seek revenue recovery at the holding company level, not the state level.[9] This approach would permit ILECs that operate in several states to selectively recover ICC revenues outside the jurisdiction in which those revenues were lost.[10]

The Commission's new rules unduly burden Massachusetts and other jurisdictions with recovery assessments arising outside of their borders. If the Commission does not amend its new rules, as requested by the District of Columbia's Public Service Commission, then the Commission should grant waivers to states like Massachusetts that have implemented access reform. To the extent that the Commission moves forward with its current proposals, then the

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[6] *CAF/ICC Order and FNPRM* at ¶¶ 862, 864.

[7] *Id*. at ¶¶ 852-853, 862-866.

[8] *Id*. at ¶¶ 851, 868, 879.

[9] *Id*. at ¶ 910.

[10] *See, e.g.*, District of Columbia Public Service Commission (DC PSC) Petition for Reconsideration, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208 (filed Dec. 29, 2011) (DC PSC Petition), at 3 (indicating that "whatever intrastate access revenues are "recovered" from District of Columbia customers [under the Commission's proposals] … would actually be intrastate access revenues "lost" in another jurisdiction"). Although intrastate access charges do not exist in DC (*Id.*), the same argument applies in states like Massachusetts that have already capped intrastate access rates to interstate access rates. Similar to DC, Massachusetts carriers will not be losing any access revenues until after July 1, 2013. For purposes of these comments, the MDTC treats the District of Columbia as a state.

Commission's proposed access recovery mechanisms should be revised to reflect enhanced and more meaningful state (and USAC) oversight, with access to both state-level and holding company-level data. Furthermore, consumers in Massachusetts and elsewhere should not be subjected to the ARC unless the Commission designates the ARC's sunset date and requires carriers to disclose it as part of their advertised pricing.

II. THE COMMISSION SHOULD REVIEW AND REVISE ITS PROPOSED STATE ROLE IN ACCESS CHARGE RECOVERY.

The Commission should review and revise its proposed state role in access charge revenue recovery.[11] Many states have already implemented intrastate rate reform. Those states' consumers should not be forced to financially support Commission-mandated reform in other states. As a result, the Commission should revisit this requirement or, at a minimum, grant waivers to states that have implemented reforms. If the Commission moves forward with its current plan, then the MDTC strongly recommends that the Commission amend the state role and carrier data-reporting requirements in order to ensure meaningful oversight of revenue recovery.

A. The Commission's Access Recovery Mechanisms Unfairly Burden Consumers In Massachusetts And Other States That Have Reformed Their Intrastate Access Rates.

One of the Commission's most egregious reform decisions in the Order is to permit recovery of intrastate revenues lost in one jurisdiction from another jurisdiction, consequently

[11] Like many other state commissions, the MDTC believes that the Commission's Order inappropriately preempts state authority over intrastate rates. Several states and other entities have appealed the issue of state preemption and other aspects of the Order to various federal appellate courts. In response to at least 13 petitions for review in eight circuit courts of appeal, the United States Judicial Panel on Multidistrict Litigation, on December 14, 2011, randomly selected the 10th Circuit in which to consolidate the petitions for review. *See In re: Federal Communications Commission, Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 76 Fed. Reg. 73830, Published on Nov. 29, 2011*, United States Judicial Panel on Multidistrict Litigation Case MCP No. 108, *Consolidation Order*.

and unfairly burdening certain states' consumers.[12] For many years prior to this Order, the Commission encouraged states to implement intrastate rate reforms.[13] Indeed, Massachusetts (and others) took the initiative and implemented measured reforms based on analyses of local requirements and conditions.[14] Rather than supporting such state actions, the Commission, instead, adopts access recovery mechanisms that punish these states for having implemented access reform. Such an approach is counterintuitive.

A more appropriate action would have been for the Commission to condition USF funding on intrastate rate reform, similar to the "carrot and stick" approach advocated by the State Members of the Federal-State Joint Board on Universal Service.[15] Such an approach has long been considered an appropriate method for federal agencies to reward states that adopt federally supported reforms and to punish states that do not.[16]

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[12] This is even more pronounced in DC, which does not have any intrastate access charges. *See* DC PSC Petition at 3. The MDTC believes that a more appropriate action would have been for the Commission to condition USF funding on intrastate rate reform.

[13] *See, e.g.*, *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011), at ¶¶ 543-549 (contemplating an ICC reform approach to encourage states to reform intrastate rates); *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC 05-33 (rel. Mar. 3, 2005), at ¶¶ 78-82 (contemplating the Commission's legal authority to implement intrastate rate reform).

[14] *See, e.g.*, AT&T Ex Parte Filing, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *High-Cost Universal Service Support*, WC Docket No. 05-337; *A National Broadband Plan for Our Future*, GN Docket No. 09-51 (filed Oct. 25, 2010) (AT&T Ex Parte), at Attachment 2 (providing numerous examples of intrastate rate reform and activities), *available at*: http://apps.fcc.gov/ecfs/document/view?id=7020918733 (last viewed Feb. 15, 2012); *Petition of Verizon New England, Inc., MCImetro Access Transmission Services of Massachusetts, Inc., d/b/a Verizon Access Transmission Services, MCI Communications Services, Inc., d/b/a Verizon Business Services, Bell Atlantic Communications, Inc., d/b/a Verizon Long Distance, and Verizon Select Services, Inc. for Investigation under Chapter 159, Section 14, of the Intrastate Access Rates of Competitive Local Exchange Carriers*, D.T.C. 07-9, Final Order (Jun. 22, 2009) (*Massachusetts Competitive Access Rate Reform Order*).

[15] State Member Comments, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208 (filed May 2, 2011) (State Member Comments), at 60-62.

[16] *See, e.g.*, *Qwest Corp. v. FCC*, 258 F.3d 1191, 1204 (10th Cir. 2001) (indicating that the Commission "could condition a state's receipt of federal funds upon the development of an adequate state program"). The State

The burden that would be imposed on Massachusetts consumers if the Commission continues forward with its existing proposals is especially pronounced because the MDTC already enacted access reform. First, the MDTC aligned the statewide price cap ILEC's intrastate access rates to its interstate rates nearly a decade ago.[17] As a result, the state's price cap ILEC will not experience any lost ICC revenues due to the Commission's reform plan until July 1, 2013, at the earliest. But if the Commission does not change the proposals set forth in the Order, the ILEC's holding company will be permitted to assess an ARC on Massachusetts consumers through its subsidiary Massachusetts price cap ILEC beginning in 2012.[18] Second, Massachusetts is a net-payor state into the Fund and has been a net loser where high-cost funding has been concerned.[19] As a result, a portion of Massachusetts consumer contributions paid into

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Members endorsed the general concept of the "carrot and stick" approach proposed by the 10th Circuit, although the State Members did not encourage the 10th Circuit's specific recommendation. State Member Comments at 61. Similarly, the MDTC endorses the general concept but not the specific example. The Commission may also look to examples of conditional federal spending; a tactic previously used by Congress, for instance, involving federal highway funding conditioned on changes by states on traffic-safety related issues. *See, e.g.*, *South Dakota v. Dole*, 483 U.S. 203 (1987) (upholding conditional spending because it had a federal purpose (improving interstate highway safety) and the condition (establishing a uniform legal drinking age) was related to the spending purpose); *State of Nev. v. Skinner*, 884 F.2d 445 (9th Cir. 1989) (upheld the right of the federal government to impose a 55-m.p.h. speed limit on highways by threatening to withhold highway construction money from states), *cert. denied*, 493 U.S. 1070 (1990).

[17] *See* MDTC Comments, WC Docket Nos. 10-90, 07-135, 05-337, and 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92 and 96-45 (filed Apr. 15, 2011), at 19 (discussing the MDTC's reform efforts involving ILEC and competitive LEC intrastate access rates) and Attachment 1 (copy of decision aligning the state ILEC's intrastate rates to its interstate rates).

[18] *Compare* AT&T Ex Parte at Attachment 2 (indicating that over 20 states have implemented intrastate access charge reform involving intrastate/interstate rate parity to varying degrees for ILECs and competitive LECs), with Federal Communications Commission Response to United States House of Representatives Committee on Energy and Commerce Universal Service Data Request of June 22, 2011, Response Request 4 "Top Ten Recipients of High-Cost Support at the Holding Company Level, 2010-2008" (providing holding company-specific breakdowns of support amounts in the different states in which their ILEC and competitive ETC subsidiaries operate), and Response Request 3 "State-by-State List of Universal Service Fund High-Cost Support Payments" (including data indicating whether the recipients are ILECs) (filed Jul. 28, 2011), *available at*: http://energycommerce.house.gov/news/PRArticle.aspx?NewsID=8737 (last viewed Feb. 16, 2012). Although the data submitted to the House Committee provides breakdowns of holding companies' ILECs and competitive ETCs, clearly state reform efforts do not entirely correspond to where the holding companies' subsidiaries operate.

[19] *See* MDTC Comments, WC Docket Nos. 10-90, 07-135, 05-337, and 03-109; CC Docket Nos. 01-92 and 96-45; and GN Docket No. 09-51 (filed Aug. 24, 2011), at 3-4.

the Fund will continue to inequitably subsidize carriers in other states through the CAF ICC Recovery mechanism. Such an approach is irrational and unfair.

The MDTC encourages the Commission to revisit its access recovery approach to prevent Massachusetts consumers from paying for any revenue losses that the state had no role in creating. To the extent that the Commission contemplates this change, the Commission should not adjust for additional recovery from the CAF ICC Recovery arm.

B. The Commission Should Not Permit Recovery Allocation Among Jurisdictions, Or, In The Alternative, The Commission Should Grant Waivers to All States That Have Implemented Access Reforms.

The MDTC supports recommendations proposed by the District of Columbia Public Service Commission (DC PSC), which recently filed a petition for reconsideration with the Commission requesting adoption of a more equitable approach to access recovery than currently envisioned in the Order.[20] In its petition, the DC PSC asked the Commission to reconsider its decision to permit price cap ILECs from determining the allocation of Eligible Recovery for ICC reform at the holding company and offered three alternative options "[t]o eliminate the inequity" created by the Commission: (1) replace the rule "with a provision that would require calculation of Eligible Recovery be performed by price cap LECs at the study area level;" (2) amend the rule "to prohibit price cap holding companies from permitting recovery of the lost intrastate access revenue from jurisdictions in which there is no lost intrastate access revenue;" or (3) waive application of the rule "to jurisdictions that have no lost intrastate access revenue."[21] The DC PSC's alternative proposals are well-reasoned and much more equitable than the Commission's current plan.

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[20] DC PSC Petition at 2.

[21] *Id*. at 2, 6. *See also* 47 C.F.R. § 51.915(e)(3).

Primarily, the MDTC agrees with the DC PSC that permitting ILEC holding companies to pass on intrastate access charge recovery among states in which they have not lost any intrastate access revenue is "patently unfair" and "constitute[s] an unjust reallocation of costs among jurisdictions."[22] In addition, the Commission's current proposals: (1) do not provide states with the opportunity for meaningful oversight and fail to provide sufficient accountability measures; [23] and (2) unfairly burden consumers in states that have already implemented reforms, doubly so for those consumers residing in net-payor states.[24]

The Commission should revisit this rule and should permit wholly-owned ILECs to seek revenue recovery only from those states in which they operate, or at the least should grant waivers from this rule to DC, Massachusetts, and other states that have achieved intrastate access reform. The MDTC agrees with the DC PSC that amendments or waivers to the rule "would prevent consumers in jurisdictions that have not lost intrastate access revenue from being unfairly assessed for this revenue through the ARC."[25] Because consumers in net-payor states like Massachusetts already shoulder a greater burden of Fund support, the Commission should not adjust for additional recovery from the CAF ICC Recovery arm if it amends the rule or permits waivers.

C. The Commission Fails To Afford States Meaningful Oversight Of Access Recovery Imposed On Their Consumers.

In its proposal, the Commission envisions a role for states in its access recovery proposals but fails to afford states meaningful oversight of any recovery imposed on their consumers. The Commission directs price cap ILECs:

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[22] DC PSC Petition at 3.

[23] Discussed *supra* at 4-7.

[24] Discussed *infra* at 8-10.

[25] DC PSC Petition at 6-7.

> [To] submit to the states data regarding all FY2011 switched access MOU and rates, broken down into categories and subcategories corresponding to the relevant categories of rates being reduced. ***With this information, states with authority over intrastate access charges will be able to monitor implementation of the recovery mechanism and compliance with our rules, and help guard against cost-shifting or double dipping by carriers***.[26]

The Commission imposes a similar requirement on rate-of-return ILECs.[27] In comparison, the Commission requires all ILECs that choose to participate in recovery to file with USAC and the Commission holding company-level data on an annual basis "regarding their ICC rates, revenues, expenses, and demand for the preceding fiscal year"[28] Unfortunately, the Commission fails to expressly require the ILECs to report actual state-by-state ARC recoveries or a broader range of state-by-state data. Without access to both state-level and holding company-level ILEC data, however, the Commission's limited data requirements will present a one-sided, incomplete picture and, therefore, will be insufficient for state commissions (or USAC) to adequately monitor implementation or ensure compliance.

The Commission indicates that "although [price cap and rate-of-return ILECs] will experience intercarrier compensation reductions on a study area-by-study area basis, they have flexibility at the holding company level to determine where and how to charge ARCs."[29] If the Commission permits ILECs to determine access recovery at the holding company level, then states (and USAC for auditing purposes) need access to the data at two levels: (1) the data being used by the holding company to calculate its eligible revenue recovery in the aggregate for every state; and (2) the actual ARC levels being assessed by the holding company's wholly-owned operating companies, broken down by state and by line type (i.e., residential versus multi-line

[26] *CAF/ICC Order and FNPRM* at ¶ 880.

[27] *Id*. at ¶ 898.

[28] *Id*. at ¶ 921. Ideally, ILEC expense reductions arising from ICC payments to other carriers will offset the ILEC's own ICC revenue reductions, thereby precluding the perceived need for access replacement mechanisms.

[29] *Id*. at n.1818. *See also* 47 C.F.R. §§ 51.915(e)(3) and 51.917(e)(3).

business, etc.).[30] This latter dataset should include subscriber totals for each of the ARC recovery line types, as well as state-by-state ARC line payment averaging.

The Commission's existing directive to price cap ILECs does not provide states (and USAC) with the information they need. States and USAC need the relevant data in order to help guard against cost-shifting or double dipping by carriers by confirming that recovery amounts collected do not exceed Eligible Recovery amounts and by permitting comparisons of state-by-state and line type data. Otherwise, states (and USAC) will have incomplete and one-sided datasets. In effect, the Commission will be creating the possibility of—and perhaps even the incentive for—the same kinds of cost-shifting and double-dipping by carriers that the Commission claims it is trying to prevent.

To ensure greater accountability and transparency of the process, the MDTC also encourages the Commission to post publicly the total ARC recovery amounts paid by each state's consumers on an annual basis. This information should be broken down by holding company, as well as any CAF ICC Recovery amounts received by companies. The Commission already posts similar data annually through the *Federal-State Joint Board on Universal Service Monitoring Report*.[31] These measures will aid greatly by making the access recovery process more transparent and balanced.

[30] For purposes of access recovery, the Commission characterizes ILEC holding companies slightly differently. *See* 47 C.F.R. §§ 51.915(e)(3) and 51.917(e)(3). A rate-of-return ILEC's holding company "includes all of its wholly-owned operating companies," and a price cap ILEC's holding company "includes all of its wholly-owned operating companies *that are price cap [ILECs]*." 47 C.F.R. §§ 51.915(e)(3) and 51.917(e)(3) (emphasis added).

[31] As a corollary matter, the MDTC strongly encourages the Commission to require all carriers to begin reporting USF contribution amounts paid by consumers on a state-by-state basis.

III. CONSUMERS SHOULD NOT HAVE TO PAY THE ARC UNLESS THE COMMISSION DEFINES A SUNSET DATE AND REQUIRES CARRIERS TO INCLUDE THE ARC IN ITS MARKETED PRICES.

The MDTC contends that the Commission should not permit ARCs in Massachusetts and other states where ILECs do not lose intrastate access revenues. To the extent that the Commission permits implementation of the ARC in any state, however, the Commission should establish a defined sunset date where the ARC would be eliminated from consumer bills.[32] Further, the Commission should require carriers to include ARCs in their advertised pricing of services.

A. The ARC Should Not Be Implemented Or, In The Alternative, Should Have A Defined Sunset Date.

Consistent with the DC PSC's position discussed above, the Commission should not implement the ARC, at least in those states that have implemented reform. However, if it does, then the Commission should designate a sunset, or end date, for the ARC. The MDTC recognizes, as does the Commission, that ARCs assessed by ILECs will phase down and approach $0 over a number of years under the terms of the Order.[33] By establishing a specific sunset date, the Commission would provide carriers, states, and consumers with additional assurances and clarity about ICC charges and would align with the expectation that ARCs will approach $0 over the next several years. In addition, adding a sunset date would introduce a modicum of fairness to competitive carriers whom the Commission does not permit to assess ARCs.[34]

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[32] *CAF/ICC Order and FNPRM* at ¶ 1327 (inquiring whether it should adopt a defined sunset date and, if so, in what timeframe). Similarly, the MDTC believes that subscriber line charges (SLCs) should be eliminated, as well. *Id*. at ¶ 1330 (inquiring whether SLCs should be eliminated).

[33] *Id*. at ¶ 1327.

[34] To be clear, the MDTC is not endorsing the proposition that all carriers, generally, be permitted to assess ARCs for their revenue losses.

Further, the MDTC is concerned that if the Commission does not establish a specific sunshine date, and the Commission permits the imposition of ARCs as presently planned, then ILEC ARCs may extend in the future through various rule amendments, or may fail to be eliminated entirely due to Commission inaction.[35] For the sake of consistency, the MDTC encourages the Commission to align the ARC's sunset with the sunset of the CAF ICC Recovery mechanism.

B. The Commission Should Require ILECs To Include ARCs In Their Advertised Pricing Of Services.

Because ILECs have the option of imposing an ARC on consumers, the Commission should require that those charges be included in the ILECs' advertised pricing of the incumbent's services.[36] Since the Commission permits companies to assess ARC charges as part of subscriber line charges (SLCs) on the same line-item, this requirement should extend to SLCs, as well, as these are also charges voluntarily-imposed by various types of providers.[37] This approach will help alleviate consumer confusion involving the actual prices of services and will permit consumers to more easily evaluate and compare the price of service among different providers.[38] Consequently, if the Commission implements its existing plans for the ARC, the Commission should require ILECs to disclose their ARCs as part of their price advertisements.

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[35] *See* Free Press Ex Parte, WC Docket No. 10-90 *et al.*, at 3 (filed Aug. 2, 2011) (pointing out the shortcomings in the implementation of Interstate Access Support (IAS)); *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *High-Cost Universal Service Support*, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58 (rel. Apr. 21, 2010) (citations omitted), at ¶¶ 57-58 (citing to the Commission's unrealized intent to revisit IAS when the Commission created it).

[36] *CAF/ICC Order and FNPRM* at ¶ 908 (affirmatively stating "carriers … are *not* required to charge the ARC"); ¶ 1334 (inquiring whether ARCs and SLCs should be included in the advertised pricing of services).

[37] *Id*. at ¶¶ 852 and 1334; n.1798. The Commission should extend this consideration to *all* line-items voluntarily imposed by *all* carriers. For instance, the USF line-item on consumer bills, among others, is also a voluntarily-imposed carrier assessment.

[38] The Commission itself notes commenter observations that certain voluntary charges "frequently are not included in the advertised price for incumbent LECs' services, making it more difficult for customers to evaluate and compare the price of service among different providers." *Id*. at ¶ 1334 (citations omitted). MDTC Consumer Division staff often receive consumer complaints involving advertised versus actual pricing of provider services.

IV. CONCLUSION

Consumers in Massachusetts and other states should not be subjected to access recovery charges for access revenues lost outside of their borders. If the Commission does not amend this rule, as recommended by the DC PSC, then it should grant waivers to states like Massachusetts that have implemented access reform. To the extent that the Commission moves forward with its current proposals, then the Commission's proposed access recovery mechanisms should be revised to reflect enhanced state (and USAC) oversight, with access to state-level and holding company-level data. Finally, the Commission should designate a sunset date for the ARC and should require carriers to disclose the ARC as part of their price advertisements. These conditions are fair and reasonable modifications to the Commission's Order.

Respectfully submitted,

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